IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.17750 of 2007
ZAFFAR KHAN
Versus
STATE OF BIHAR
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5 22.9.2008 Heard Mrs. Anjana Prakash, Senior Advocate for the petitioner and Sri Jharkhandi Upadhaya, learned A.P.P. for the State.

Through this application the petitioner who is one of the accused of Kako P.S. Case No. 103 of 1998 for alleged offences under section 307 and other allied sections of the Penal Code and section 27 of the Arms Act has prayed for quashing of the order dated 26.8.2006 passed by the learned Presiding Judge, Fast Track Court No. II, Jehanabad, in the resultant Sessions Trial No. 466 of 2003, whereby the learned court below has refused to release the licensed arms of the petitioner on the ground that the said gun was used in the occurrence and the S.D.P.O. had recommended to the District Magistrate for cancellation of the license.

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It has been submitted by the learned counsel for the petitioner that the aforesaid trial being Sessions Trial No. 466 of 2003 had resulted in acquittal of the petitioner and other accused persons of all the charges framed against them and notwithstanding the same the Court was not inclined to release the gun in favour of the petitioner who holds a valid license bearing License No. 683 of 1984 for the same and was the only rightful claimant for the said gun. It was further submitted that once the trial had ended in acquittal of all the accused after a full dressed trial there was no requirement of the gun being kept in custody of the police.

It is an admitted fact that the petitioner and others who were facing trial in Sessions Trial No. 466 of 2003 have been acquitted of all the charges framed against them. In that view of the matter the necessity of the gun to be kept in police custody was no more required and the court below appears to have erred in its decision in refusing to release the gun in favour of the petitioner who not only holds a valid license for the same but is also the only claimant for the same.

In the aforesaid circumstances while allowing the prayer of the petitioner it is hereby directed that the court below shall take steps for releasing the gun in favour of the petitioner if the license for the same is still in vogue.

With the aforesaid direction this application is allowed and the impugned order refusing to release the gun in favour of the petitioner is hereby quashed.

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Spd/- **(Abhijit Sinha, J.)**